

REMARKS

The Office Action

Claim 22 stands rejected under 35 U.S.C. § 102(b) as being anticipated by patent 3,953,862 to Amberntsson, et al. The top wall of the housing in Amberntsson includes an opening 31 which receives a plug 32 having a vent 33 therethrough and a filter 34 at the inner end of the vent. Claim 22 specifically defines the opening through the top wall of applicant's cartridge to include "a cylindrical neck having an outer end" and specifically sets forth that applicant's vent is a porous member "resting on said outer end to cover said opening." Claim 22 further requires a cap "securing said porous member on said neck." Opening 31 in Amberntsson, et al. does not include a cylindrical neck having an outer end, and Amberntsson, et al. do not disclose a porous member resting on the outer end of such a cylindrical neck and secured thereto by a cap.

For a prior art reference to anticipate a claim in terms of 35 U.S.C. § 102, every element of the claim must be identically shown in a single reference, and these elements must be arranged as recited in the claim. See, for example, *In re: Bond*, 15, USPQ 2d 1566, 1567 (CAFC 1990) citing *Diversitech Corp. v. Century Steps, Inc.*, 7 USPQ 2d 1315, 1317 (CAFC 1988). Amberntsson, et al. failed to show an opening including a cylindrical neck having an outer end, a porous member resting on the outer end to cover the opening, and a cap securing the porous member on the neck. Therefore, Amberntsson, et al. do not anticipate claim 22 under 35 U.S.C. § 102(b). Accordingly, withdrawal of the rejection of claim 22 on this prior art and allowance of the claim is in order and is respectfully requested.

Claim 25 stands rejected 35 U.S.C. § 102(b) as being anticipated by patent 5,700,315 to Wenzel. Wenzel discloses an ink cartridge 10 having a top wall 16 and a bottom wall 18 as asserted by the examiner. However, the outlet passage 52 is in front wall 32 of the housing, not the bottom wall, and vent opening 34 is in an end cap 80 and not the top wall. More importantly, and contrary to the examiner's assertion, Wenzel does not disclose in column 15, lines 1-8, "a diaphragm having a flexible portion overlying vent opening" 84. Rather, Wenzel discloses that air vent 84 "may be covered with a porous

plastic membrane (not shown) as discussed in U.S. Pat. No. 4,771,295 to Baker, et al. which allows air to pass therethrough while preventing ink leakage from the cartridge 10. In the referenced Baker, et al. patent, the material covering the vent is fabricated from polytetrafluoroethylene. There is no reference whatsoever in Wenzel or Baker, et al. to a diaphragm.

Claim 25 specifically sets forth that applicant's vent is a diaphragm mounted on the top wall and "having a flexible portion overlying said opening through said top wall on the inner side thereof." Wenzel does not disclose applicant's diaphragm structure and, therefore, in accordance with *In re: Bond*, supra., does not anticipate claim 25 under 35 U.S.C. § 102(b). Accordingly, withdrawal of the rejection of claim 25 on this prior art and allowance of the claim is in order and is respectfully requested.

Claim 23 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Amberntsson '862 in view of U.S. Pub. 2004/0022559 to Kusano, et al., and this rejection is respectfully traversed. To begin with, claim 23 is dependent from claim 22 and, therefore, distinguishes from Amberntsson for the reasons set forth in connection with claim 22. Furthermore, Figure 11 of Kusano, et al. discloses a cap 50 received in mouth 18 of bottle 13. Contrary to the examiner's assertion, this structure does not provide "a peripheral recess extending inwardly of said chamber from said top wall" as is set forth in claim 23. Cap 50 in Figure 12 of Kusano, et al. is formed with a recess which faces outwardly, but the recess in the cap of Kusano, et al. does not provide a cylindrical neck which extends inwardly of the bottle from the top wall thereof and which neck is "surrounded by a peripheral recess" as is required in claim 23. The only modification of Amberntsson, et al. which would be obvious is from Kusano, et al. would be to replace the plug 32 of Amberntsson, et al. with the cap 50 of Kusano, et al. This would not result in the structure of applicant's ink cartridge set forth in claim 23. Accordingly, claim 23 patentably distinguishes from this combination of prior art and is allowable.

Claim 24 is dependent from claim 23 and stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Amberntsson, et al. in view of Kusano, et al. and further in view of patent 5,085,355 to Yoshimura, et al. Claim 23 patentably distinguishes from Amberntsson, et al. and Kusano, et al. for the reasons set forth hereinabove with regard to

claims 22 and 23, and Yoshimura, et al. fails to overcome the shortcomings of Amberntsson, et al. and Kusano, et al. with regard to these claims. The only modification of the latter prior art which would be obvious in view of Yoshimura, et al. would be to thread neck 18 of the bottle of Kusano, et al. and apply the cap for Yoshimura thereto. This would not provide the structure of applicant's invention as set forth in claim 24, whereby the latter claim patentably distinguishes from this prior art and is allowable.

CONCLUSION

For the reasons set forth hereinabove, it is respectfully submitted that claims 22-25 patentably distinguish from the prior art of record and are allowable, whereby withdrawal of the rejections of these claims and allowance thereof is in order and is respectfully requested.

Respectfully submitted,

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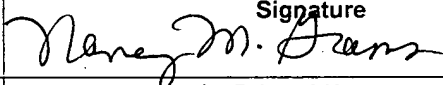
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